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08 MAY 2 PM 12:44

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

Attorneys for Defendant  
MORGAN SERVICES, INC., a Delaware  
corporation (erroneously named as an Illinois  
corporation)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

WILLIAM SWIMAN, individually and on  
behalf of all other persons similarly  
situated and on behalf of the general public,

Plaintiff,

v.

MORGAN SERVICES, INC., an Illinois  
corporation; and DOES 1 through 100,  
inclusive,

Defendants.

Case No. 08 CV 0806 WQH NLS  
Judge:

DECLARATION OF ARLENE PRATER IN  
SUPPORT OF NOTICE OF REMOVAL OF  
ACTION TO FEDERAL COURT

Complaint Filed: March 20, 2008

BEST BEST & KRIEGER LLP  
ATTORNEYS AT LAW  
SAN DIEGO

1 I, Arlene Prater, hereby declare as follows:

2 1. I have personal knowledge of the matters set forth in this Declaration, and if called  
3 to testify, I could competently testify to the matters stated herein.

4 2. I am an attorney licensed to practice law in the State of California and in the  
5 District Court for the Southern District of California. I am a partner with the law firm of Best  
6 Best & Krieger LLP, attorneys for Defendant Morgan Services, Inc. ("Morgan Services").

7 3. I exclusively represent employers in employment and labor matters and litigation.  
8 I am familiar with damages and attorneys' fees in wage and hour lawsuits under California law.

9 4. I have calculated potential damages as follows based on the allegations in  
10 Plaintiff's Complaint and records from Morgan Services, his hours worked (eighteen (18) weeks  
11 or ninety (90) days of employment), and hourly rate while employed at Morgan Services  
12 (\$10.91/hour) and my knowledge of the area of law:

13 A. I calculated that if the Court assessed a penalty of one-hour's wage for each  
14 day of the alleged missed rest periods and one hour's wage for each missed  
15 meal period for Plaintiff during his eighteen (18) weeks of employment the  
16 damages would equal \$1,963.80.

17 B. I calculated that if the Court assessed a penalty for eighteen (18) weeks of  
18 failing to provide the proper wage statements with hours worked (\$50 first  
19 week and \$100 for each subsequent pay period) the penalties would total  
20 \$1,750.00.

21 C. I calculated that if the Court awarded Plaintiff twenty (20) hours of  
22 overtime for eighteen (18) weeks at the rate of time and a half (for hours  
23 over eight (8) but less than twelve (12)), the unpaid overtime would total  
24 \$5,893.20.

25 D. I calculated that if the Court awarded Plaintiff ten (10) hours of overtime  
26 for eighteen (18) weeks at the rate of double-time (for hours over twelve  
27 (12) in a day), the unpaid overtime at the double-time rate would total  
28 \$3,927.60.

1 E. I calculated that if the Court awarded Plaintiff waiting time penalties for  
2 the unpaid wages which were due, of one day's pay for the maximum thirty  
3 (30) days at the rate regular rate of pay and using eight (8) hours per day,  
4 the penalties would total \$2,618.40.

5 F. I estimated an award for restitution for Business and Professions Code  
6 section 17200 et seq. violation as equal to the amount for the claims for  
7 unpaid wages, missed meal and breaks and penalties of \$16,153.00.

8 5. Therefore, Plaintiff's alleged damages, including unpaid overtime, penalties and  
9 restitution, if awarded in full, would total at least \$32,306.00.

10 6. I am familiar with civil actions involving wage and hour issues, California Labor  
11 Code and Industrial Welfare Commission Wage Order violations, and Business and Professions  
12 Code section 17200 et seq. claims. Based upon my past experience, I estimate Plaintiff will incur  
13 attorneys' fees at least in excess of \$45,000 which combined with the other damages claimed will  
14 readily exceed \$75,000 in pursuing his claims against Defendant.

15 I declare under penalty of perjury under the laws of the United States and the State of  
16 California that the foregoing is true and correct. Executed this 2<sup>nd</sup> day of May, 2008 in San  
17 Diego, California.

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ARLENE PRATER